



Federal Communications Commission
Washington, D.C. 20554

February 26, 2018

Fox Television Stations, LLC
400 N. Capitol Street, NW
Washington, DC 20001

Re: Request for Waiver of Deadline to
Implement Shared Channel Operations
WDCA, Washington, DC
Facility ID No. 51567
LMS File No. 0000042945

Dear Licensee,

On February 21, 2018, Fox Television Stations, LLC (Fox) submitted the above-captioned request for waiver for WDCA, Washington, DC (Station) of its April 23, 2018, deadline to implement shared channel operations and discontinue operations on its pre-auction channel (channel sharing implementation deadline).¹ For the reasons set forth below, we grant the request for waiver, extend the channel sharing implementation deadline to July 23, 2018.

Background. The Commission instructed that channel sharee stations² must implement shared channel operations and discontinue operations on their pre-auction channels by January 23, 2018.³ A channel sharee station may request a waiver of the channel sharing implementation deadline.⁴ All such requests for waiver will be evaluated to determine whether grant will delay or disrupt the post-auction transition schedule.⁵

¹ See *Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, Public Notice, 32 FCC Rcd 2786, 2813, para. 76 (MB & WTB 2017) (*Closing and Channel Reassignment Public Notice*); see also *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd 858, 879, para. 63 (MB 2017) (*Broadcast Transition Procedures Public Notice*); 47 CFR §§ 73.3700(b)(4)(ii).

² Absent any contrary information from the station, any station that indicated it had a pre-auction channel sharing agreement (CSA) and/or an intent to channel share on its reverse auction FCC Form 177 is considered a channel sharee station until the station fails to meet or obtain a waiver of the channel sharing application filing deadline.

³ See *Closing and Channel Reassignment Public Notice*, 32 FCC Rcd at 2813, para. 76; *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 879-80, paras. 63-64.

⁴ See *Closing and Channel Reassignment Public Notice*, 32 FCC Rcd at 2814, para. 81; *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 881, para. 69. Channel sharee stations may request an additional 90 day waiver of the deadline (for a total of 180 additional days) using the same procedure. *Id.*

⁵ *Id.*

A waiver is appropriate where the particular facts would make strict compliance inconsistent with the public interest and deviation from the general rule would relieve hardship, promote equity, or produce a more effective implementation of overall policy on an individual basis.⁶

Fox was previously granted a waiver extending its channel sharing implementation deadline to April 23, 2018.⁷ In support of its second request for waiver of the deadline, Fox notes that Station will be sharing with commonly-owned WTTG, Washington, DC. Fox further notes that Station and WTTG broadcast four multicast channels between them. Once they begin channel sharing, Fox maintains that some of those multicast channels may be lost due to spectrum constraints. Fox states that it is currently evaluating encoders that may allow broadcast of both stations in HD and all the current multicast channels. Fox represents that it needs the additional time to complete evaluation of the encoders and order the encoder that meets this criteria. Fox believes that allowing Station to utilize a full 6 MHz channel for a second additional three months will allow it to complete its evaluation of encoders, order the encoder and provide its current slate of multicast channels to its viewers during the interim period into the summer.

Fox represents that, because it will channel share with its sister station WTTG, no additional outside resources (tower crews, manufactured antennas, etc.) will be needed to implement the second 90-day waiver nor will any resources be diverted from the work on Phase 1 of the transition. Fox also argues that allowing Station to stay on its pre-auction channel will have no impact on any post-auction wireless planned use of the spectrum because Station's pre-auction channel 36 which is inside the core.

Discussion. Upon review of the facts and circumstances presented, we find Fox's request to extend the channel sharing implementation deadline until July 23, 2018, satisfies the requirements for a waiver. We find that it would not be consistent with the public interest to require Station to implement its shared channel operations by its current deadline as it is currently completing implementation of its shared channel operations. Given that Station operates on channel 36, a channel that is not within the 600 MHz band, and that the testing period start date for transition phase 1 is not set to begin until September 14, 2018, we find that waiver of the channel sharing implementation deadline will not adversely impact the post-incentive auction transition.

Any further request for waiver of the channel sharing implementation deadline will not be viewed favorably.⁸

⁶ See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1072 (1972); 47 CFR § 1.3 (waiver for good cause shown).

⁷ See LMS File No. 0000034090.

⁸ Further requests to waive the channel sharing implementation deadline must be filed no later than May 23, 2018. *Id.* at 880, para. 70 (requests for waiver of the channel sharing implementation deadline must be filed no later than 60 days prior to the deadline).

The above facts considered, Fox Television Stations, LLC's request for waiver **IS GRANTED** and the deadline to implement its shared channel operations and to discontinue operations on its pre-auction channel for WDCA, Washington, DC, **IS EXTENDED** for 90 days to July 23, 2018.⁹

Sincerely,

A handwritten signature in black ink, appearing to read 'Bara Kreisman', with a long horizontal flourish extending to the right.

Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc: Joseph M. Di Scipio, Esq.

⁹ Because the extended channel sharing implementation deadline falls on Sunday, July 22, 2018, we set Monday, July 23, 2018, as the new deadline. *See* 47 C.F.R. § 1.4.